

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANGUS MORDANT,

Plaintiff,

- against -

CITINSIDER LLC,

Defendant.

Docket No. 18-cv-9054

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Angus Mordant (“Mordant” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Citinsider LLC (“Citinsider” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Senator Brian Benjamin, owned and registered by Mordant, a New York based professional photographer. Accordingly, Mordant seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Mordant is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 261 West 25 Street Apt. 7B, New York, NY 10001.

6. Upon information and belief, Citinsider is a domestic limited liability company duly organized and existing under the laws of the State of New York, with a place of business 373 Park Avenue South, 6th Floor, New York, NY 10016.

7. At all times material, hereto, Citinsider has owned and operated a website at the URL: <https://brokerpulse.com> (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

8. Mordant photographed Senator Brian Benjamin (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

9. Mordant then licensed the Photograph to the New York Daily News.

10. On May 24, 2017, the New York Daily News ran an article that featured the Photograph on its web edition entitled *Democrats seek unity with breakaway pols to give the party control of New York State Senate*. See <http://www.nydailynews.com/news/politics/dems-seek-unity-give-party-control-new-york-state-senate-article-1.3193478>

11. The New York Daily News included an authorship credit (also known as a “gutter credit”) below the Photograph which clearly identified Mordant as the author of the Photograph. A true and correct copy of the New York Daily News article is attached hereto as Exhibit B.

12. Mordant is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

13. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-062-520, with effective date of June 23, 2017 (the “520 Registration”). Attached as Exhibit C is a true and correct copy of the 520 Registration.

14. The content title of the Photograph, as listed on the face of the 520 Registration, is “Mordant, Brian Benjamin, 5_24_2017.jpg.”

B. Defendant’s Infringing Activities

15. On or about June 17, 2017, Citinsider ran an article on the Website titled *City Under Fire: Rebranding Neighborhood Names In New York City May Soon Be Illegal*. See URL <https://brokerpulse.com/2017/07/17/city-under-fire-rebranding-neighborhood-names-in-new-york-city-may-soon-be-illegal/> (the “Article”).

16. The Article prominently featured the Photograph. A true and correct copy of the Article, as well as a screenshot, is attached hereto as Exhibit D.

17. Citinsider did not license the Photograph from Plaintiff for its Article.

18. Citinsider did not have Plaintiff’s permission or consent to publish the Photograph on its Website.

19. Prior to the filing of this lawsuit, there was no communication between Plaintiff and Defendant.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

20. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-19 above.

21. Citinsider infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Citinsider is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

22. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

23. Upon information and belief, the foregoing acts of infringement by Defendant have been willful or in reckless disregard of Plaintiff's rights.

24. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

25. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

26. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Citinsider be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement

of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;

3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 3, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/jameshfreeman
James H. Freeman, Esq.
11 Sunrise Plaza, Suite 305
Valley Stream, New York 11580
Tel: (516) 233-1660
JF@LiebowitzLawFirm.com

Attorneys for Plaintiff